

04-10348
USDCMA
Luster

United States Court of Appeals For the First Circuit

No. 05-2843

UNITED STATES,

Appellee,

v.

MARIO RODRIGUEZ PERALTA,

Defendant, Appellant.

Before

Boudin, Chief Judge,
Torruella and Howard, Circuit Judges.

JUDGMENT

Entered: July 26, 2006

Appellant challenges the sentence imposed upon his plea of guilty to being found in the United States without permission of the Attorney General. He contends that the district court erred by enhancing his sentence, under advisory sentencing guideline § 2L1.2(B)(1)(A), because appellant did not admit (and a jury did not find) that his previous deportation followed conviction of a felony that was a crime of violence. However, the argument that United States v. Almendarez-Torres, 523 U.S. 224 (1998), which does not require previous convictions to be charged or found by a jury, is no longer good law has been repeatedly rejected by this court. See, e.g., United States v. Jimenez-Beltre, 440 F.3d 514, 520 (1st Cir. 2006).

The government's motion for summary disposition is granted.

The judgment is summarily affirmed.

Certified and Issued as Mandate
under Fed. R. App. P. 41.

By the Court:

Richard Cushing Donovan, Clerk


Deputy Clerk

Date: 8/18/06

Richard Cushing Donovan, Clerk.

By: MARGARET CARTER
Chief Deputy Clerk.

[cc: Page Kelley, AFPD, Nadine Pellegrini, AUSA,
Dina M. Chaitowitz, AUSA]